

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

---

**ANTHONY BUNNELL,**

**Plaintiff,**

**-vs-**

**Case No. 06-C-0248**

**JOHN CEDAR and GLENN POLER,**

**Defendants.**

---

**DECISION AND ORDER**

---

Plaintiff, Anthony Bunnell, a state prisoner at all times relevant, filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983 and is proceeding *in forma pauperis* on a Fourteenth Amendment equal protection claim. Currently pending is the defendants' motion to dismiss.

The defendants filed their motion to dismiss on December 12, 2006. The plaintiff did not file a response to the defendants' motion. Federal Rule of Civil Procedure 41(b) provides for involuntary dismissal for failure to prosecute an action or to comply with court orders. Additionally, a plaintiff's failure to respond that delays the litigation can be a basis for a dismissal for lack of prosecution. *Bolt v. Loy*, 227 F.3d 854, 856 (7th Cir. 2000); *see also Rice v. City of Chicago*, 333 F.3d 780, 785-86 (7th Cir. 2003) ("the ultimate sanction of dismissal should be involved only in extreme situations, where there is a clear record of delay or contumacious conduct."). However, no case should be dismissed for failure to prosecute without a warning to the plaintiff, either explicitly or by making clear that no

further extensions of time will be granted. *Bolt*, 227 F.3d at 856 (citing *Williams v. Chic. Bd. of Educ.*, 155 F.3d 853 (7th Cir. 1998)).

In a March 8, 2007 order, the court granted the plaintiff additional time to March 26, 2007, to file his response to the defendants' motion. The court also advised the plaintiff that his action could be dismissed for failure to prosecute if he failed to file a timely response by March 26, 2007. To date, no response has been filed.

In light of the foregoing, the court finds that the plaintiff has been given ample time to respond to the defendants' motion and he has been warned that this action is subject to dismissal. Nevertheless, the plaintiff has failed to respond to the defendants' motion. Therefore, this action will be dismissed. The plaintiff may petition for reinstatement within 20 days. *See* Civil Local Rule 41.3 (E.D. Wis.)(In an action dismissed for lack of prosecution, "[a]ny party can petition for reinstatement of the action within 20 days.").

**IT IS THEREFORE ORDERED** that this action is **dismissed**.

**IT IS FURTHER ORDERED** that the defendants' motion to dismiss (Doc. # 11) is **terminated**.

The Clerk of Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 28th day of March, 2007.

**SO ORDERED,**

s/ Rudolph T. Randa

**HON. RUDOLPH T. RANDA**  
**Chief Judge**